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conduct of their business with respect to matters under their control does not apply to acts of persons beyond their control. *Tall* v. *Packet Co.*, 90 Md. 248, 44 Atl. 1007; *R. R. Co.* v. *Pillsbury*, 123 Ill. 21, 14 N. E. 22.

CONSTITUTIONAL LAW—REASONABLE CLASSIFICATION—REGULATION OF INSURANCE COMPANIES—DISCRIMINATION IN FAVOR OF FOREIGN CORPORATIONS.—The State of Washington instituted proceedings to enjoin defendant from carrying on the business of fraternal insurance until it complied with the laws regulating the business of insurance companies. Chapter 174 of Session Laws of 1901 (Supplement to Ballinger's Code, pp. 297-307), provides that all companies incorporated after the passage of that law, or foreign corporations coming into the state after that time, shall not charge lower rates to members than those provided in the Fraternal Congress Mortality Tables. The law excepts all corporations doing business before the passage of the act and they may continue charging the customary rates. Defendant is charged with collecting less than the rates specified in that Table. Its defense is that the law is unconstitutional and void, because it makes an unreasonable and unjust classification in violation of Sec. 12, Art. 1 of the State Constitution prohibiting the granting of any privileges and immunities to citizens and corporations that do not belong to all citizens and corporations alike and Sec. 7, Art. 12 that no foreign corporation shall be allowed to do business on more favorable terms than domestic corporations. *Held,* that the law was constitutional and valid. *State* v. *Fraternal Knights and Ladies* (1904), — Wash. —, 77 Pac. Rep. 500.

There is no question as to the right of the Legislature to make classifications, but the courts agree in requiring that such classifications be on a reasonable basis. In this case time is the basis for the classification, and it seems hardly reasonable that a corporation chartered or coming into the state one day before the passage of the act be placed on a different footing than corporations chartered or coming into the state two days after. The court in construing equal protection of the laws says: "That clause of the Constitution means that laws shall have equality of operation; but that does not mean equality on persons as such, but on persons according to their relations." The court cites numerous cases in support of the decision, but in all of them, but one, the classification was made on a different basis than time. In *Ames* v. *U. P. Ry. Co.* 64 Fed. Rep. 165, the court upheld the constitutionality of a law passed by the Legislature of Nebraska providing the rates to be charged by railroads for carrying freight, but exempting all railroads built or to be built from January 1st, 1889, up to December 31st, 1889, until this last date. At the same term at which the principal case was decided the Supreme Court of Washington held that an act of the Legislature empowering the city of Port Townsend to impose and collect from every male between 21 and 50 a capitation tax of two dollars, but exempting all members of voluntary fire associations was unconstitutional because it discriminated between age, sex and condition. *State* v. *Ide* (1904), — Wash. —, 77 Pac. Rep. 961.

CONSTITUTIONAL LAW—USE OF TRADING STAMPS—POLICE POWER.—Act of 1899 prohibiting and making a penal offense the giving of trading stamps with

purchases *held* unconstitutional and void as depriving a citizen of the right to acquire property and unsustainable under the police power of the state. *State* v. *Ramseyer* (1904), — N. H. —, 58 Atl. Rep. 958.

A number of interesting cases have lately arisen in regard to the constitutionality of statutes prohibiting the use of trading stamps and the courts are uniform in holding against the validity of such statutes. *State* v. *Dodge,* (1904) (Vt.) 56 Atl. Rep. 983; *Commonwealth* v. *Sisson* (1901), 178 Mass. 578; *State* v. *Shuggart* (1903), 138 Ala. 83; *City of Winston* v. *Beeson* (1904), — N. C. — 47 S. E. 457; *Ex parte McKenna* (1899) 126 Cal. 429. See also *Young* v. *Commonwealth* (1903), 101 Va. 853, reported and commented upon in 2 MICHIGAN LAW REVIEW 224, where a number of cases in point are cited.

CONTRACT—BREACH—DAMAGES.—Defendant by a written memorandum accepted an offer for a lease of a machine for $450 cash, with the additional payment of $225 semi-annual royalties, and agreed after the machine was installed to execute a lease in accordance with the conditions outlined in the memorandum; giving the defendant the privilege, on payment of the royalties due, of terminating the lease by returning the machine. While it was being installed, the defendant directed its removal and failed to execute the lease. *Held,* that he was liable, for breach of the contract in failing to execute the lease as agreed, or on the theory that the contract was executed and afterwards broken. *Warth* v. *Liebovitz* (1904), — N. Y. —, 71 N. E. Rep. 734.

Two modes of procedure were open to the plaintiff, he might have sued upon the contract, and for a breach of it, notwithstanding the defendant's failure to execute the license agreement (*Sanders* v. *Pottlitzer & Co.,* 144 N. Y. 209, 39 N. E. 75, 29 L. R. A. 431, 43 Am. St. Rep. 757), and recovered the cost of installing the machine and the royalty as it fell due. *McCready* v. *Lindenborn,* 172 N. Y. 400, 65 N. E. 208. Where, as in the case under discussion, the plaintiff claimed simply a breach of an agreement to enter into the contract a different remedy obtains. In such a case the value of the contract is the proper measure of relief to which the injured party is entitled. But in this case the defendant had reserved the right to return the machine and had actually returned it to the plaintiff. The express condition of the contract limited the liability of the defendant because, it limits the value of the contract to the other party. *Watson* v. *Russell,* 149 N. Y. 388, 44 N. E. 161. The only damages sustained by the plaintiff were the $450 for installing the machine and the $225 royalty for the first six months, which may be properly added to the value of the contract, because it was stipulated royalty for the period within which the contract was broken.

CORPORATION—NOTES GIVEN IN PAYMENT FOR ITS OWN STOCK—BANKRUPTCY—PROVABLE DEBTS.—Smith and Menefee, directors of a corporation, the S. P. Smith Lumber Company, owned substantially all the shares of capital stock. The corporation was barely solvent, being heavily in debt and many of its assets were of doubtful value. Menefee was anxious to dispose of his interest and threatened Smith with a receiver unless he should buy him out. Accordingly Menefee transferred to Smith 200 shares of capital stock and received as consideration two promissory notes aggregating $9,050,